UNITED
NATIONS

E

Economic and Social
Council

Distr
GENERAL

E/CN 4/2000/33
10 January 2000

Original ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the situation of human rights in Afghanistan submitted by Mr. Kamal Hossain, Special Rapporteur, in accordance with Commission resolution 1999/9

GE.00-10045 (E)

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Executive summary

This is the third report of the Special Rapporteur. He presented his first report (E/CN.4/1999/40) to the Commission on Human Rights at its fifty-fifth session in March 1999. He submitted an interim report (A/54/422) to the Third Committee of the General Assembly at its fifty-fourth session on 4 November 1999.

The first report had been made following a visit to Kabul, and to Islamabad and Peshawar, where Afghan refugee groups were interviewed in March 1999. The interim report to the General Assembly was preceded by a visit to Quetta and Kandahar in May 1999 and to Kabul and Islamabad in September 1999. Following receipt of allegations of serious human rights violations which were occurring as a result of resumption of conflict in the central highlands in Afghanistan, in particular in Bamyan, in May and in the Shamali Plains north of Kabul in July 1999, the Special Rapporteur's visits were aimed at gathering first-hand information. In May, he interviewed newly arrived refugees and displaced persons, mostly women and children from Hazarajat. In Kabul, he was able to interview persons who had been forcibly displaced from the Shamali Plains in July 1999. The visit to Kabul was undertaken together with the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, who will deal with the issues related to women's rights in some detail in her separate report.

The Special Rapporteur pointed out that the people of Afghanistan continued to be victims of gross violations of human rights and persistent breaches of international humanitarian law. The basic cause of this was that the people of Afghanistan continued to be virtual hostages in their own land, where externally armed forces sought to rule Afghanistan without the effective participation or consent of the people. The most fundamental denial of human rights which needed to be addressed was that of the right of the people of Afghanistan effectively to participate in the governance of their country through freely chosen representatives, recognized in article 21 of the Universal Declaration of Human Rights and elaborated in article 26 of the International Covenant on Civil and Political Rights, to which Afghanistan is a party.

The critical importance was underscored of initiating a peace process, a process of transition from the present rule by armed groups (externally supported) to a broad-based multi-ethnic, representative government which enjoyed the confidence of all segments of the Afghan population, including a significant proportion of the several million Afghan refugees forced to live outside Afghanistan.

Fighting between the Taliban and the United Front (UF) had ebbed and flowed during the period under review without resulting in significant changes to the territory held by either party. After a further massive loss of human lives, increased suffering of the civilian population and immense physical destruction, the two sides found themselves roughly in the same positions they held in late 1998.

Following the receipt of allegations of serious human rights violations being committed in the central highlands of Afghanistan, particularly in Bamyan, the Special Rapporteur had decided to seek first-hand information and visited Quetta in May 1999 to interview newly arrived refugees from Hazarajat. The violations of human rights which were reported to him by

credible eyewitnesses included forced displacement of the civilian population; deliberate burning of houses, summary executions of non-combatants, including women and children; arbitrary detention; and forced labour. All of these practices constitute grave human rights violations. The actions, reportedly carried out by Taliban forces who were engaged in military operations, ran directly counter to assurances publicly given by the Taliban leadership with regard to the rights of the civilian population. The Special Rapporteur had then travelled to Kandahar and met Mawlavi Wakeel Ahmed Mutawakil, Special Adviser to the Taliban leadership, to draw their attention to the pattern of gross violations, which was summarized in an aide-mémoire delivered by the Special Rapporteur on 23 May 1999. Specific actions were requested to be taken in order to prevent further violations and to protect and reassure the civilian population affected. An adequate and effective response is still awaited. The Special Rapporteur has made repeated requests to visit Bamyan but these requests have not elicited a positive response.

The level of fighting reached an unprecedented scale for 1999 when the Taliban launched a major ground and air offensive against the United Front on 28 July. The offensive, which Taliban leaders called a decisive battle to defeat UF, not only shattered the hopes for peace raised at the Tashkent meeting of the "Six plus Two" group, but also added further problems to the already grave humanitarian and human rights implications of the offensive. The Taliban offensive in the Shamali Plains and the North-East resulted in massive involuntary and forced displacement of the civilian population, in particular women and children. Widespread first-hand reports indicated that there were house and crop burnings, forced deportations, family separations, the separation and deportation of women, and arbitrary killing in southern Shamali. The Special Rapporteur addressed an appeal to the Taliban authorities on 4 August 1999 and to the Northern Alliance on 5 August 1999 pointing out the dangers to which the resumed conflict was exposing the civilians and should be avoided. The texts of those letters were appended to the interim report submitted to the General Assembly last November.

The Human Development Index ranks Afghanistan amongst the lowest in the world and the Gender Disparity Index, a composite index based on the measurement of female life expectancy, educational attainment and income ranks it the lowest in the world (UNDP, Human Development Report, 1995). Afghanistan's formal economy stands devastated as a result of two decades of armed conflict. According to a 1997 World Bank report, the country's economy is currently reliant on "subsistence agriculture, unofficial transit trade, war-related financial flows, drug income and international assistance".

The Special Rapporteur quoted the Secretary-General's latest report to the General Assembly on Afghanistan (A/54/536-S/1999/1145) which reported as follows: "In 1999, Afghanistan became by far the world's largest illicit producer of opium, with its output reaching up to 75 per cent of all illicit opium worldwide. According to this year's annual poppy survey conducted by the United Nations International Drug Control programme (UNDCP), opium production is estimated to reach a record level of 4,600 metric tons, which could potentially be converted into 460 metric tons of heroin."

A conjuncture of developments has created an opportunity for a bold initiative to adopt coordinated measures which will truly address the root causes responsible for the appalling human rights situation in Afghanistan. The fundamental aim must be to restore Afghanistan to all of its people, through reviving and sustaining a peace process, a process of transition which

will fill in the constitutional and political vacuum in which externally supported armed groups impose arbitrary rule without the consent or participation of the Afghan people, violating their human rights. In this context, the recent Loya Jirgah (grand assembly) initiative provides a means for active and purposeful consultations among all Afghan people and the warring groups - the Taliban and the United Front - who may well be persuaded by the United Nations, and the "Six plusTwo" group to participate in these consultations. These consultations could aim to devise a transition process which would provide agreed procedures for establishing a broad-based, multi-ethnic, truly representative government.

It should be noted, as does a recent study that pervasive human rights problems are both a cause and consequence of the governance crisis. The character of the existing authorities, who rule without the consent and participation of the Afghan people, is the root cause of human rights violations, ranging from imposition of "edicts" which provide for systematic gender discrimination, to inflicting cruel, degrading and inhuman punishment and maintaining authoritarian rule. The focus thus needs to shift from incremental changes to a framework change.

The time may indeed be propitious for giving the highest priority to making a concerted effort to achieve a framework change in Afghanistan. The circumstances which encourage this view include changes in the neighbouring countries, the recent discussions among them, the meetings between the Taliban and their neighbours, the release of several hundred opposition prisoners by the Taliban, and the resolve expressed within the United Nations for positive action. All these, taken together, present an opening which should not be missed.

Introduction

1. This is the third report of the Special Rapporteur. He presented his first report (E/CN.4/1999/40) to the Commission on Human Rights at its fifty-fifth session in March 1999. He submitted an interim report (A/54/422) to the Third Committee of the General Assembly at its fifty-fourth session on 4 November 1999.

2. The first report had been made following a visit to Kabul, and to Islamabad and Peshawar, where Afghan refugee groups were interviewed in March 1999. The interim report to the General Assembly was preceded by a visit to Quetta and Kandahar in May 1999 and to Kabul and Islamabad in September 1999. Following receipt of allegations of serious human rights violations which were occurring as a result of resumption of conflict in the central highlands in Afghanistan, in particular in Bamyan, in May and in the Shamali Plains north of Kabul in July 1999, the Special Rapporteur's visits were aimed at gathering first-hand information. In May, he interviewed refugees, including women and children recently arrived from Hazarajat. In Kabul, he was able to interview persons who had been forcibly displaced from the Shamali Plains in July 1999. The visit to Kabul was undertaken together with the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, who will deal with the issues related to women's rights in some detail in her separate report.

3. The Special Rapporteur, drawing upon earlier reports of special rapporteurs and his own observations and information gathered in the course of his visits referred to above, had pointed out that the people of Afghanistan continued to be victims of gross violations of human rights and persistent breaches of international humanitarian law. The basic cause of this was that the people of Afghanistan continued to be virtual hostages in their own land, where externally armed forces sought to rule Afghanistan without the effective participation or consent of the people. The most fundamental denial of human rights which needed to be addressed was that of the right of the people of Afghanistan effectively to participate in the governance of their country through freely chosen representatives. This is the right recognized in article 21 of the Universal Declaration of Human Rights, namely that "the will of the people shall be the basis of the authority of government" and that "this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage, and shall be held by secret voting or equivalent free voting procedures", and elaborated in article 26 of the International Covenant on Civil and Political Rights, to which Afghanistan is a party.

4. The critical importance was underscored of initiating a peace process, a process of transition from the present rule by armed groups (externally supported) to a broad-based multi-ethnic, representative government which enjoyed the confidence of all segments of the Afghan population including a significant proportion of the several million Afghan refugees forced to live outside Afghanistan.

I. ACTIONS AIMED AT PROMOTING A PEACE PROCESS

From Ashkabad to Tashkent (February to July 1999)

5. Following discreet efforts in late January and early February by the Special Mission and certain neighbouring countries to persuade the two Afghan warring sides to meet, an initial meeting of Taliban and United Front (UF) representatives took place in Ashkabad, Turkmenistan, on 10 and 11 February 1999. The two sides agreed in principle that there should be a further round of talks leading to agreement on a ceasefire, prisoner exchange and future government. This second round of intra-Afghan talks took place from 11 to 14 March in Ashkabad, again under the auspices of the United Nations. At the end of the three-day meeting, both sides reached a framework agreement to, in principle, form a shared executive, a shared legislature and a shared judiciary. They also agreed to continue the talks, after the religious holiday of Eid Al-Adha, preferably inside Afghanistan. Unfortunately, those talks were never held as the parties lapsed into mutual recriminations.

6. At the invitation of the Government of Uzbekistan, the Deputy Ministers for Foreign Affairs of the members of the "Six plus Two" group had met in Tashkent on 19 and 20 July 1999. The Secretary-General's Special Envoy for Afghanistan, Mr. Lakhdar Brahimi, had participated in the meeting, and Taliban and UF representatives were invited as observers and met each other for the first time since the Ashkabad talks in March 1999.

7. The meeting had adopted the "Tashkent Declaration on Fundamental Principles for a Peaceful Settlement of the Conflict in Afghanistan" (A/54/174-S/1999/812). In the Declaration, the members of the group reiterated their commitment to a peaceful political settlement of the Afghan conflict and called for the resumption of peace talks between the Taliban and the United Front. The members of the group, for the first time, publicly committed themselves to do what the Security Council had repeatedly been urging, namely, not to provide military support to any Afghan party and to prevent the use of their respective territories for such purposes. The group, as well as the Secretary-General's Special Envoy, made strong appeals to the Taliban and the UF to refrain from launching any major new military offensives.

8. On 18 August 1999, the Government of Pakistan announced an initiative being undertaken by it in response to an appeal by Professor Rabbani to the Prime Minister of Pakistan, to facilitate reconciliation between the contending Afghan parties, but no positive outcome was achieved.

The Loya Jirgah initiative (April to November 1999)

9. The Loya Jirgah (grand assembly) is an institution which has historically been convened by successive regimes to obtain popular ratification of constitutions. This was true in the case of the 1964 Constitution promulgated under King Zahir Shah as well as the constitution promulgated under President Daud in 1977. The Taliban representative who informed the Special Rapporteur that a draft constitution is being prepared acknowledged that a Loya Jirgah was the institution which had traditionally been convened for ratification of constitutions.

10. A constitutional vacuum exists in Afghanistan. The fact that the Taliban themselves recognize the need for a constitution to be drawn up underlines the need to develop an inclusive process which would enable all segments of the Afghan population to participate in working out an acceptable constitutional framework and procedures for its acceptance and approval by the Afghan people. It is in this context that the first of a series of steps taken by the former King of Afghanistan, Mohammad Zahir Shah, acquires special significance.

11. On 29 April, the former King of Afghanistan, Zahir Shah, had announced an initiative whereby a group of 30 Afghan political figures would meet in Rome to prepare for the convening of a Loya Jirgah. The King's initiative was welcomed by a broad range of Afghan groups. An initial preparatory meeting took place on 25 June. The Taliban, although invited, did not attend. The group decided to form a preparatory council to develop the initiative and to launch a campaign within the region to explain the initiative and rally support for it. The organizers of the Loya Jirgah initiative held a further preparatory meeting in Rome in November. The 77 participants invited to this meeting were drawn from a wide range of the Afghan population, including persons of different ethnic and social groups as well as women. The Secretary-General of the United Nations sent an observer to the meeting. Representatives from France, Germany, Iran, Japan, Pakistan, the Russian Federation, Saudi Arabia, Switzerland, Turkey, the United Kingdom and the United States were also present.

12. The opening session called for an immediate end to the war and to foreign interference. The group called for an active United Nations role to bring about such a change. It also agreed that the Emergency Loya Jirgah (comprised of both men and women) is the most effective mechanism for resolving the Afghan conflict and that it should be held in Afghanistan. Within the next six months, the following steps for the convening of the Emergency Loya Jirgah were agreed upon:

- To ensure international support for the convening of the Emergency Loya Jirgah, delegations should be sent to the United Nations, neighbouring countries, the United States, member States of the European Union, the Organization of the Islamic Conference and other international bodies and governments to explain the outcome of the meeting, and to seek their cooperation with and participation in the Emergency Loya Jirgah;

- To seek the cooperation of the main warring parties (i.e. the Taliban and the United Front) for the convening of the Emergency Loya Jirgah in Afghanistan, delegations should be sent to discuss the organization modalities and to invite their participation and cooperation;

- To mobilize support among those Afghans, both inside and outside Afghanistan, not directly involved in the war; the opening of offices should be considered in Pakistan and Iran, in cooperation with the respective governments. Similarly, supportive networks should be established in Afghanistan and around the world;

- To implement the decisions of the Organizing Committee, an executive council will be established, and the Rome office will be strengthened.

Other meetings of Afghan groups

13. Other meetings were held by non-belligerent Afghan political groups in locations outside Afghanistan to explore a peaceful solution to Afghanistan's problems, but have had little support from the contending parties in Afghanistan. A prominent Afghan figure involved in these peace efforts was the victim of an assassination last July. Abdul Ahad Karzai, once a deputy speaker of the Senate and a supporter of the ex-King, was gunned down in Quetta, only days after he arrived from the United States.

Reorganization of the United Front and the Taliban

14. Before the peace talks in Ashkabad, the United Front consolidated the anti-Taliban forces, politically and militarily, under a single, unified command. A 40-member Leadership Council, headed by Professor Rabbani, and a separate Supreme Military Council were established. The United Front also announced its intention to form a 150-member assembly or shura in non-Taliban areas, shortly before the opening of the fifty-fourth session of the United Nations General Assembly. The United Front announced the formation of a 10-member Political Committee, as well as a ministerial cabinet reshuffle aimed, it said, at giving a broader representation from Afghanistan's four major ethnic groups, namely the Pashtoon, Tajik, Hazara and Uzbek communities.

15. The Taliban administration under Mullah Omar, announced re-organization, under which responsibility for information, interior and foreign affairs were entrusted to particular members of the leadership. The declared objective of these changes was to improve efficiency and discipline. The Taliban representatives also reported that the preparation of a draft constitution was under way.

The efforts of the Special Envoy of the Secretary-General (December 1998 to August 1999)

16. The Secretary-General's Special Envoy undertook three missions to the region - to the Islamic Republic of Iran and Pakistan for consultations with leaders of the respective Governments and others (December 1998), to Afghanistan, and to Saudi Arabia, Pakistan, the Islamic Republic of Iran, the Russian Federation, Uzbekistan, Tajikistan and Turkmenistan (February to March 1999). He met with the Taliban supreme leader, Mullah Mohammad Omar, in Kandahar, and went to Kabul twice for talks with the Taliban leadership there. He also had two meetings with Commander Ahmad Shah Massoud, in Dushanbe and Taloqan.

17. During his first two missions, the Special Envoy had urged the parties to settle their differences by peaceful means and, to that end, to resume the intra-Afghan talks started in Ashkabad. He had suggested a wide range of confidence-building measures, including agreement on a permanent cease-fire, the exchange of prisoners of war and the appointment of military liaison officers. He had also repeatedly underlined the importance for the neighbours of Afghanistan, in particular, the Islamic Republics of Iran and Pakistan to engage in frank and serious discussions on their mutual concerns.

18. In July 1999, the Special Envoy represented the United Nations at the Tashkent meeting of the "Six plus Two" group and visited Kabul and Islamabad. He repeated his proposals for confidence-building measures while speaking to the Taliban and United Front delegations in Tashkent. He also helped bring the two sides together for a private meeting.

19. In Tashkent and at his subsequent meetings in Kabul in July, the Special Envoy made strong appeals to leaders of the contending sides, including Mullah Mohammad Rabbani, not to launch a military campaign, in keeping with the spirit of the Tashkent Declaration. The point was made that in a multi-ethnic country like Afghanistan, peace could only be achieved through reconciliation among its people and with its neighbours. The conquest of territories, however extensive, would never succeed in bringing about a lasting peace.

20. Upon his return to Islamabad on 25 July, the Special Envoy continued his last-minute attempt to avert the Taliban offensive, which by then appeared imminent. Despite these calls the offensive began in the early hours of 28 July, with massive operations in the Shamali Plains, north of Kabul.

UNSMA efforts to promote peace

21. Through the year, the United Nations Special Mission to Afghanistan (UNSMA) performed the three essential roles encompassed by its mandate: (a) to support the Special Envoy in promoting peace through contact with the two contending sides as well as through the wider Afghan political and civil community; (b) to monitor and report political and military developments in Afghanistan; and (c) to coordinate activities with the Office of the United Nations Coordinator for Afghanistan as well as the indigenous and international humanitarian assistance community.

22. The mediation efforts of the Special Mission gathered pace in early 1999 following some fruitful discussions between the Mission and the leadership of the contending sides. These discussions contributed greatly to the two rounds of talks between senior Taliban and UF representatives in Ashkabad.

23. The preparations for the Civil Affairs Unit within UNSMA, which was proposed following the massacres and the gross human rights violations after the retaking of Mazar-I-Sharif by the Taliban forces in August 1998, seen as a means of deterring such violations in the future, are reported to be well advanced.

24. An UNSMA-led assessment mission in late April/early May received the agreement of the contending Afghan sides to the Unit's operations inside Afghanistan. The Civil Affairs officers are scheduled to take up their posts in time for deployment starting early 2000.

II. RESUMPTION OF CONFLICT: CENTRAL HIGHLANDS (MARCH 1999), SHAMALI PLAINS AND NORTH-EAST (JULY 1999), BAMYAN IN THE CENTRAL HIGHLANDS (MARCH 1999)

25. With the advent of spring, conflict resumed in the Hazarajat in the central highlands. Hazarajat is populated mostly by Hazaras. Bamyan city had been the stronghold of Hezb-e Wahdat up to September 1998, when they had been defeated by the Taliban. It was reported that while leaving the city Hezb-e-Wahdat forces had killed 30 Taliban prisoners who were being held in Bamyan prison. Reports further indicated that during its rule of Hazarajat, and particularly in Bamyan, Hezb-e-Wahdat had failed to maintain law and order and the behaviour of its forces towards Tajiks living in Bamyan, Kohmand and Saighan districts had forced a large number of Tajiks to leave Bamyan during 1996-1997.

26. The Taliban entered Bamyan city for the first time on 13 September 1998 after a short period of fighting in Aghrubut pass. From 15-17 September, the Taliban had launched a search in Bamyan villages for "suspected people". During the search they had reportedly arrested people who were taken to the desert and, reportedly, a number of them were summarily executed. Sarasiab, Haiderabad and Syedabad villages were among the villages which suffered the most.

27. Hezb-e-Wahdat forces secured control of Bamyan for three weeks. It was reported that during that time they arrested 11 drivers and 25 passengers in vehicles passing through Bamyan on the road from Behsood, because of their ethnicity. The captives were released by the Taliban on 9 May when they recaptured Bamyan.

28. The retaking of Bamyan by the opposition had been considered a big setback by the Taliban. The Taliban massed 4,000 troops to recapture Bamyan. The operation was led by high-ranking commanders of the Taliban, including Maulavi Abdul Kabir, deputy to the acting Shura, Mullah Akhund, head of the East-West zone, Mullah Fazal Akhund, chief of the military corps, and Mullah Abdul Wahid Ghorbandi, a front-line commander.

29. The Taliban retook Bamyan on 9 May 1999. Upon their entering Bamyan city, there were reports of summary executions. Most of the population evacuated the city and took refuge in the mountains. They were facing a serious situation given the weather in the cold mountainous areas and the acute shortage of food. It was reported that a group of 150 people, including women and children, were taken captive by the Taliban from Berson village and transferred to Parwan province.

30. Fighting between the Taliban and the United Front (UF) had ebbed and flowed during the period under review without resulting in significant changes to the territory held by either party. After a further massive loss of human lives, increased suffering of the civilian population and immense physical destruction, the two sides found themselves roughly in the same positions they held in late 1998. Dr. Ayub, the Medical Director of Shuhada, an independently funded humanitarian agency, was arrested and detained in jail without charges, where he still remains, despite repeated appeals for his release.

Major Taliban offensive in the Shamali Plains and the North-East (July 1999)

31. The level of fighting reached an unprecedented scale for 1999 when the Taliban launched a major ground and air offensive against the United Front on 28 July. The offensive, which Taliban leaders called a decisive battle to defeat UF, not only shattered the hopes for peace raised at the Tashkent meeting of the "Six plus Two" group, but also added further problems to the already grave humanitarian and human rights implications of the offensive as described below.

32. In addition to the existing troops, the Taliban offensive was believed to have been reinforced by between 2,000 to 5,000 new recruits, many of them non-Afghans, who had apparently crossed the borders to join the civil war in Afghanistan. The Taliban offensive was successful at the initial stages, leading to the quick capture of most of the Shamali Plains, north of Kabul, up to the entrance of the Panjshir Valley, as well as areas close to the Amu Darya (Oxus) river. However, on 5 August, United Front forces counter-attacked and retook virtually all the territory lost to the Taliban in the previous week.

33. On 11 August, the Taliban regrouped and launched a new attack from the front line north of Kabul, advancing cautiously and securing the terrain through the forced displacement of the civilian population and the destruction of houses and the agricultural infrastructure. The Taliban established a new front line some 50 kilometres north of Kabul, running from the "old Kabul road" north of Qarah Bagh, traversing Bagram airbase and the Kohi Safi Mountains, to a point in the vicinity of Nijrab. The United Front, meanwhile, opened new areas of conflict, in an effort to reduce pressure on their forces and draw away some of the Taliban's superior numerical strength, during which UF made some minor territorial gains, mainly in the south-eastern region.

34. In September, the Taliban stepped up their pressure on UF positions in northern Afghanistan, north of Kunduz city and, to the east, Khanabad town in Takhar province. For their part, UF kept up their diversionary attacks in the North-West and the South-East of the country. On 25 September, the Taliban launched a major offensive in northern Kunduz province, close to the border with Tajikistan. They pushed through Baghi, east of Khanabad town, and threatened to take Taloqan, capital of Takhar province and one of Commander Ahmad Shah Massoud's main command and control centres. The Taliban air force intensified its aerial bombing causing a considerable number of civilian casualties, damage to property and population exodus.

35. By late October, however, the United Front had once again driven the Taliban back to their starting positions. Intermittent fighting has continued in the west in Herat, Ghor and Farah Provinces. In early November, UF claimed that its forces had made further advances in northern provinces of Samangan and Sar-e-Pul.

36. The conflict had thus further spread to the Kunduz and Takhar Provinces, including widespread destruction in Khwaja Ghar (September-October) and Dara Souf (July-October). Aerial bombardment by Taliban jets in the Bazarak area of Panjshir on 18 November 1999 resulted in killing 25 people and wounding scores of others. Aid agencies working in the valley reported that two cluster bombs had been dropped in the Bazarak area. One of the bombs hit a

school where internally displaced persons from Shamali near Kabul were settled, killing 24, including women and children. The second bomb hit a local bazaar and wounded at least 10 persons.

III. GRAVE BREACHES OF INTERNATIONAL HUMANITARIAN LAW RESULTING FROM RESUMPTION OF CONFLICT

Bamyan and the central highlands

37. Following the receipt of allegations of serious human rights violations being committed in the central highlands of Afghanistan, particularly in Bamyan, the Special Rapporteur had decided to seek first-hand information and visited Quetta in May 1999 to interview newly arrived refugees from Hazarajat. The violations of human rights which were reported to him by credible eyewitnesses included forced displacement of the civilian population, deliberate burning of houses, summary executions of non-combatants, including women and children, arbitrary detention, and forced labour. All of these practices constitute grave human rights violations. The actions, reportedly carried out by Taliban forces who were engaged in military operations, ran directly counter to assurances publicly given by the Taliban leadership with regard to the rights of the civilian populations. Some of the Taliban field commanders were named specifically. Those named included Abdul Wahid Ghorbandi.

38. The Special Rapporteur had then travelled to Kandahar and met Mawlavi Wakeel Ahmed Mutawakil, Special Adviser to the Taliban leadership, to draw their attention to the pattern of gross violations, which was summarized in an aide-mémoire delivered by the Special Rapporteur on 23 May 1999. Specific actions were requested to be taken in order to prevent further violations and to protect and reassure the civilian population affected. An adequate and effective response is still awaited. The Special Rapporteur has made repeated requests to visit Bamyan but these requests have not elicited a positive response.

Shamali Plains and the North-East

39. The Taliban offensive in the Shamali Plains and the North-East resulted in massive displacement of the civilian population, in particular women and children. The United Front claimed that some 250,000 civilians had been displaced from the Shamali Plains, which independent reports indicate is an overestimate. The bulk of them had sought refuge in the Panjshir Valley. Other estimates ranged from 65,000 to 150,000 of whom a substantial number (over 50,000) are reported to have been moved by the Taliban forces to Jalalabad and Kabul. According to a Taliban spokesman, Mullah Amir Khan Mutaqqi, some 1,800 families had been transported to Jalalabad (Sar Shahi Camp) and a similar number were to be allocated to them. Such movements were justified by stating that this was being done for their own security because "the opposition had used civilians and their homes as human shields". There is thus incontrovertible evidence of involuntary and forced displacement of large numbers of civilians, specially women and children. There are reports that dozens of trucks were seen, filled only with women and children separated from the male members of the family. There also does not appear to be any prospect of their early return, as there are reports that many of their homes have been destroyed and fruit-bearing trees have been cut down. Access to the area was not possible for personal verification, which would be attempted as soon as circumstances permit. The

Special Rapporteur addressed an appeal to the Taliban authorities on 4 August 1999 and to the Northern Alliance on 5 August 1999 pointing out the dangers to which the resumed conflict was exposing the civilians and should be avoided. The texts of those letters were appended to the interim report submitted to the General Assembly last November.

40. Widespread first-hand reports indicated that there were house and crop burnings, forced deportations, family separations, the separation and deportation of women, and arbitrary killing in southern Shamali. House burnings were reportedly worst in Istalif, Farza, Kalakan and Guldara with lesser levels in Qarabagh and parts of Bagram district. Two specific instances of killings were reported, one involving groups of 12, 9 and 13, while the other involved groups of 23 and 15. These took place in the Bagram area and involved male civilians. The reports of systematic destruction of property and agriculture by the Taliban forces in the Shamali Plains were denied by officials in Kabul who suggested that a protective strip of 200 metres on either side of the main road was being cleared. This was not, however, borne out by independent reports which noted that homes and villages far from any main road had also been destroyed.

IV. TESTIMONY OF REFUGEES AND INTERNALLY DISPLACED PERSONS

41. A survey of Afghan refugees who had left Afghanistan in the period extending from the end of 1998 to the third quarter of 1999 and of internally displaced persons who were interviewed provides the basis for findings of gross human rights violations summarized below.

1. Continuing denial to women of access to education, health and employment

42. The right to the freedom of movement of women continues to be severely curtailed, with little access to employment or education. The Taliban continue to enforce its edicts with unabated severity. The refugees related stories of the abduction of women, rape, infliction of the punishment of stoning, lashing and other forms of inhuman punishment.

2. Women's prisons

43. Women's prisons reportedly exist in Kandahar, Kabul, and Mazar-I-Sharif and possibly in Jalalabad. Many women from the Hazarajat and Bamyan regions (Hazaras), from Mazar-I-Sharif and Pul-I-Khumri regions in the North (Hazaras and Tajiks), and from the Shamali and Panjshir regions of the latest summer incursion (Tajiks) are reportedly held captive without official reason in these prisons.

3. Abduction and kidnapping of women and girls

44. When Taliban took over territory in central and northern Afghanistan, many Hazara and Tajik women and girls were abducted in the villages and taken directly from houses by force. Besides their policy of separating families, Hazara and Tajik women have been rounded up in trucks from Mazar-I-Sharif, Pul-I-Khumri and Shomali regions. Trafficking of women and girls to Kandahar, Jalalabad and Pakistan was reported. Women have been killed and maimed trying to escape from these trucks. One Afghan woman reportedly jumped from a truck with her two daughters as it was moving in order to escape. Most of these women have not returned to their

villages. Eyewitnesses have seen trucks and cars full of Afghan women on the road to Kandahar and to Pakistan. Many suspect that women and girls end up forced into prostitution.

4. Forced marriages to Taliban

45. Women from Kabul, Mazar-I-Sharif and Shamali regions have given accounts of many instances of forced marriages. Taliban reportedly enter houses in Kabul and in new territory they conquer and force the families of young girls and women to conclude a "Nikah" (marriage contract) and thus marry them to Taliban members or to give them a large sum of money instead. When families refuse, they take the women and girls away by force. Many families in the Shamali region have sent their daughters away with internally displaced persons who headed toward Kabul and refugees to Pakistan, fearing forced marriages and abduction by the Taliban.

5. Non-Afghans present in fighting alongside the Taliban

46. Many of the refugees reportedly encountered Urdu-speaking men in positions of authority during the fighting in the North as well as in Kabul and Kandahar. Many report that these non-Afghans (including Pakistanis and Arabs) are involved in human rights violations committed against women and ethnic minorities.

6. Forcible evacuation of Shia and Tajik families from Kandahar and surrounding areas

47. Shias and Tajiks, who were generally being accused of being associated with the truck-bomb explosion near Mullah Omar's residence in Kandahar, were told to quit their homes, leaving all their belongings behind.

7. Separation of families from central Afghanistan (Tajiks and Hazaras) and the Shamali Plains

48. New arrivals reported that not only are families separated (men from women, younger women and girls from the elderly) but all their possessions and material belongings were looted, and their houses and fields burned.

8. The Taliban edicts

49. A number of stories were related regarding summary enforcement of edicts. These included a report about the beating of women for infractions of the "chadari" (dress) requirement and of women rebelling by yelling at the Taliban and taking off and throwing the "chadari" (cloak). In some of these cases, a crowd came to the women's defence and the Taliban were unable to continue their harassment.

V. IMPACT ON OVERALL HUMAN RIGHTS SITUATION OF CONTINUING CONFLICT

50. The impact of renewed fighting has been assessed in a recent report entitled "Human Rights, Afghanistan - A Formidable Challenge", a paper prepared for an Afghanistan Support Group (ASG) meeting in Ottawa (December 1999) by the Office of the United Nations Coordinator for Afghanistan (29 November 1999), thus:

> "Events of recent months - a dramatic upsurge in fighting, brutal attacks on civilians, destruction of essential assets, rising food prices - have further undermined the well-being and coping mechanisms of those Afghans who are least able to exercise their rights. Unquestionably, the greatest threat to life is the continuing war and its impact on all aspects of Afghan society. The immediate, indirect, and accumulated effects of war continue to take a devastating toll on lives and livelihoods. This in turn weakens the ability of Afghans, and Afghan society as a whole, to address core human rights concerns. These include structural inequalities, the marginalization of particular groups including the inability of women and girls to participate fully in public life, and the need for representative and accountable governance mechanisms.
>
> "There is growing and disturbing evidence that armed conflict in Afghanistan is now chiefly directed against civilians. Non-combatants have always borne the brunt of the fighting but, increasingly, civilians are treated as 'the enemy'. Gross violations of human rights and humanitarian law include forced displacement, summary execution, abduction and disappearance of young women, use of child soldiers, the indiscriminate use of landmines, separation of menfolk from their families, arbitrary detention and forced labour. In addition, there has been systematic and widespread use of a scorched earth policy including the destruction of homes, livestock, agricultural produce, farming implements, sewing machines and other income-producing tools and equipment.
>
> "Growing pauperization and pitiful socio-economic conditions, that are intimately linked to the war and attendant underdevelopment, remain the strongest factors undermining or denying the right to life in Afghanistan. The country has some of the most alarming socio-economic indicators in the world. The level of infant and maternal mortality is one of the highest on the planet while literacy rates are among the lowest. Even though steady progress has been made in recent years in improving access to safe water supplies, diarrhoea still kills an estimated 85,000 children annually. Families which are most vulnerable, including female-headed households and those with no routine means of income, are adding to a growing army of destitute people who are often reduced to begging for survival.
>
> "From any perspective, the human rights situation in Afghanistan can only be described as daunting. An unholy combination of factors point to a formidable array of obstacles which need to be overcome before true progress on human rights is achievable. These include protracted armed conflict that is increasingly directed against civilians and their means of survival, external interests including the continuous supply of arms that help perpetuate the conflict, profound underdevelopment and widespread poverty coupled

with the erosion of societal norms and traditional coping mechanisms, and minimal possibilities for the participation of civilians in the political life of the country.

"The central task in Afghanistan today is to bring the war to an end, to nurture into being a political environment conducive to the achievement of equity, peace and justice, and to support the realization of socio-economic conditions essential for living a life of dignity and self-worth compatible with basic human rights precepts. In other words, progress on human rights cannot be divorced from all those factors that daily confront Afghans in their struggle to avoid the life-threatening impact of war, and to achieve such life-dependent and fundamental rights as the right to food, the right to shelter, the right to health, and the right to secure their own and their families' well-being."

VI. DEVASTATED ECONOMY AND CONTINUED DEPRIVATION OF SOCIAL AND ECONOMIC RIGHTS AND DETERIORATION IN THE SITUATION OF THE RIGHTS OF WOMEN

51. The current Afghan population is estimated at 20 million, including over 2.5 million male and female refugees in Pakistan and Iran, thousands of internally displaced families and more than 1 million war widows heading households. The Human Development Index ranks Afghanistan amongst the lowest in the world and the Gender Disparity Index, a composite index based on the measurement of female life expectancy, educational attainment and income ranks it the lowest in the world (UNDP, Human Development Report, 1995). Afghanistan's formal economy stands devastated as a result of two decades of armed conflict. According to a 1997 World Bank report, the country's economy is currently reliant on "subsistence agriculture, unofficial transit trade, war-related financial flows, drug income and international assistance". The annual assistance flow of around 200 million dollars has alleviated human suffering in the short run and prevented major humanitarian disasters but has not provided the foundation for sustainable development.

52. In a report entitled "The situation of women's health, education and income-generating employment in Afghanistan: A gender perspective" (November 1999), prepared for the Office of the Coordinator for Afghanistan, summarized the position as follows:

(a) Though cultural norms and traditions in Afghanistan have been historically conservative and characterized by strong division of gender roles, with decision-making roles being dominated by males, "increased access of women to education, health services and employment was part of State modernization projects at the beginning of the century and during the late 1970s. This led to growth in social demand for female education and created a female professional elite, mostly in the cities. With the Taliban takeover of the majority of the country, women's access to education, health and employment was extremely narrowed. This was further aggravated by the grim economic situation, the destruction of the social infrastructure and the absence of national policies for the rehabilitation of social sectors."

(b) Basic health indicators reflect the alarming health situation of Afghan women and children:

- life expectancy rates in Afghanistan are estimated at 44 years for women and 43 for men;

- Afghanistan has the second highest maternal mortality rate in the world. Every day about 45 women die of pregnancy-related causes resulting in over 16,000 maternal deaths annually;

- tuberculosis rates for women are among the highest in the world. There are approximately 133,000 tuberculosis cases, 70 per cent of which are females of the age of 15-45;

- infant mortality rate is 165 per 1,000 live births;

- one quarter of all Afghan children die before they reach the age of five;

- in most regions, the physician/population ratio is below one physician per 10,000 of the population;

- only 15 per cent of deliveries in Afghanistan are attended by trained health workers, most of whom are traditional birth attendants;

(c) The health situation of women and girls is further aggravated by the complete segregation in the provision of health services to males and females. This has enormously curtailed women's access to these services, especially when there is only a very small number of female doctors and trained nurses practising under severe restrictions in hospitals;

(d) Similar to the health sector, the education sector's hardware was destroyed by the war. The software of the sector was destroyed by the brain drain and segregation policies banning female teachers from working. Currently the education sector is characterized by limited human and financial resources, the absence of a national education policy and curricula at pre-university levels, the unpreparedness of the authorities to rehabilitate destroyed school buildings and facilities and the **discriminatory policies banning access of female students to all levels of education;**

(e) A recent World Bank workshop on education in Afghanistan (Islamabad, November 1999) concluded that even with the current restrictive environment, opportunities exist for expanding the education base for Afghan children requiring medium and long-term investment in human and financial resources in the education sector;

(f) The principled position of the United Nations system on equality of access of males and females to education has been a guiding principle in negotiations at all levels with the authorities. However, no significant progress in improving access and gender equality in formal education has yet been achieved. Home-based education for girls is still the only opportunity available to Afghan girls at present;

(g) The report of the United Nations Inter-Agency Gender Mission to Afghanistan (November 1997) had described the situation thus: "Generally, small income-generating projects are stop-gap measures, designed to fill employment and income gaps without providing the basis for sustainable livelihood; as such, female participants are neither part of mainstream of assistance projects, nor are they able to get footholds in future market place." This remains significantly unchanged, although some evidence suggests that there is a preliminary acceptance on the employment of women in agro-industrial cottage-type establishments employing groups of women and using some form of simple food-processing technology.

Illegal drugs

53. The Secretary-General's latest report to the General Assembly on Afghanistan (A/54/536-S/1999/1145) reported as follows: In 1999, Afghanistan became by far the world's largest illicit producer of opium, with its output reaching up to 75 per cent of all illicit opium worldwide. According to this year's annual poppy survey conducted by the United Nations International Drug Control Programme (UNDCP), opium production is estimated to reach a record level of 4,600 metric tons, which could potentially be converted into 460 metric tons of heroin. In 1999, an estimated 90,983 hectares were under opium poppy cultivation. This represents an increase of 43 per cent over the previous year. Opium poppy cultivation has now spread to 104 districts in Afghanistan, compared to 73 districts in 1998.

VII. CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

54. A conjuncture of developments has created an opportunity for a bold initiative to adopt coordinated measures which will truly address the root causes responsible for the appalling human rights situation in Afghanistan, described in this report. The fundamental aim must be to restore Afghanistan to all of its people, through reviving and sustaining a peace process, a process of transition which will fill in the constitutional and political vacuum in which externally supported armed groups impose arbitrary rule without the consent or participation of the Afghan people, violating their human rights.

55. The process must be inclusive - and must aim to involve all segments of the Afghan population, including the several million refugees forced to live outside Afghanistan. The coordinated measures which need to be accorded priority include the following:

- Effective actions to end external support for the warring groups in Afghanistan;

- Implementation of the commitments made in the Tashkent Declaration in July 1999 and the Security Council's exhortations to end armed conflict as well as external support to the warring groups;

- Ensuring that neighbouring States of Afghanistan, in compliance with the above commitments, deny use of their territory as training and recruiting grounds for the warring parties, and to deny them material support, in particular fuel supplies necessary to sustain military operations and to carry out aerial bombardments;

- Promoting a consultative process among all segments of the Afghan population with a view to their reaching agreement on the transition process aimed to establish a broad-based, multi-ethnic, truly representative government.

56. This would recognize the basic truth underlined in the "Formidable Challenge" paper prepared for the Office of the United Nations Coordinator for Afghanistan that: "Bringing the war to an end is, without doubt the most important policy issue facing the international community from a human rights perspective. There is no substitute for peace ... those who profit from conflict, either in financial or political terms, have a stake in its continuation. The losers, namely the vast majority of Afghans, have a minimal and ever-declining capacity to withstand the war's harmful effects. **Stopping the arms flow must assume greater priority in the international community's endeavours to promote human rights in Afghanistan**." To this one may add the immediate interdiction of fuel supplies, in particular aviation fuel.

57. This view has received clear endorsement in the Secretary-General's latest report to the General Assembly. That report ascribes to the 20 years of war accumulated effects which continue to take a huge toll in lives, limbs and livelihood and states the unpalatable truth of the war in Afghanistan, namely the chronic dependency of the warring factions on foreign military support, endures. Such interference from outside the country remains one of the biggest impediments to peace as it provides the essential means for the continued fighting in the form of arms, ammunition and war-making materiel. It also emphasized that: "Equally alarming and unacceptable is the growing presence of thousands of 'foreign volunteers' mainly on the side of the Taliban". A statement of the Secretary-General's spokesman expressed the Secretary-General's deep concern over reports of the involvement in the conflict of students, some as young as 14, and calls on the warring parties to respect the Convention on the Rights of the Child". (Statement attributable to the spokesman of the Secretary-General, 17 August 1999).

58. In this context, the recent Loya Jirgah initiative provides a means for active and purposeful consultations among all Afghan people and the warring groups - the Taliban and the United Front - who may well be persuaded by the United Nations, and the "Six plus Two" group to participate in these consultations. These consultations could aim to devise a transition process which would provide agreed procedures for establishing a broad-based, multi-ethnic, truly representative government.

59. The importance of the protection of civilians and ensuring that humanitarian aid enhances and does not undermine the physical security and integrity of the people must remain "primordial policy consideration", as underlined in the "Formidable Challenge" paper prepared for the United Nations Coordinator for Afghanistan, should be fully appreciated and kept in view by the international community.

60. A note of caution needs to be added about that report's recommendation about "developing a dialogue with the authorities" while advancing with "rights-based programming". It should be noted, as does a recent study that pervasive human rights problems are both a cause and consequence of the governance crisis. The character of the existing authorities, who rule without the consent and participation of the Afghan people, is the root cause of human rights violations, ranging from imposition of "edicts" which provide for systematic gender

discrimination, to inflicting cruel, degrading and inhuman punishment and maintaining authoritarian rule. The focus thus needs to shift from incremental changes to a framework change.

61. The time may indeed be propitious for giving the highest priority to making a concerted effort to achieve a framework change in Afghanistan. The circumstances which encourage this view include changes in the neighbouring countries, the recent discussions among them, the meetings between the Taliban and their neighbours, the release of several hundred opposition prisoners by the Taliban, and the resolve expressed within the United Nations for positive action. All these, taken together, present an opening which should not be missed.